

MINUTES
HANOVER CONSERVATION COMMISSION
May 17, 2006



Members/Staff present: Stephen T. O'Leary, Chairman
James M. Smith, Vice Chairman
Neal Merritt, Hearing Officer
Deke Moore, Commissioner
Laura Horky, Commissioner
Patrick Gallivan, Conservation Agent
Sandra D. MacFarlane, Conservation Comm. Secretary

Members/Staff not present:

Others present: Attached List

The meeting was called to order at 7:07 PM by Chairman Stephen T. O'Leary who announced that Vice Chair James Smith had submitted a letter of resignation and that this would be his final meeting with the Commission. The Chair thanked Jim for all his hard work and great contribution to the Commission as well as the Town of Hanover.

PUBLIC HEARINGS/MEETINGS:

7:00 PM RULES & REGULATIONS REVISIONS- *continued from the 5/3/06 meeting*

Chairman Stephen T. O'Leary opened the hearing with a brief statement concerning the public hearing process and a summary of the 5/3/06 hearing. He further explained the Commission's proposed revisions to the section of the regulations that list setback distances to wetlands and buffer zones. He also stated that impacts to the Route 53 corridor need further study. Selectman Daniel Pallotta requested copies of the revised regulations for review prior to the public hearing at which the vote to accept will be taken. Chair O'Leary assured all that the reason for the hearings is to solicit comments from the public and noted that he was well aware of the public's concerns and their fears about the loss of land use. Selectman Pallotta cautioned about revisions to the setbacks from wetlands as it will have an impact on the Route 53 corridor improvement project. Chair O'Leary stated that the Commission has not finished review of the impacts, but assured all that Route 53 is being considered as well as impacts to residents. Mr. Arnold Itz, Hanover resident and Chair of the Route 53 Study Committee spoke to the same issue and questioned "sensitive" areas on his own property. The Chair noted that existing lots would not be effected. Selectman Alan Rugman noted difficulty with determination of "grandfathered" properties and noted that it would be difficult to enforce. Chair O'Leary stated that his intention is to mirror the state format, set a date of priority as per the grandfathering, and maintain the same date for By-Law portion of applications. When questioned by Mr. Frank Gerraughty, property/business owner of 899 Washington Street, Chair O'Leary noted that if the lot was created prior to the date (to be established), the lot was grandfathered, even with a new owner.

Mr. Itz noted concern with that statement and stated that prior conditions could be grandfathered, but not new owners.

Selectman Rugman cautioned against firm statements and requested that Town Counsel review all and any revisions to the Regulations prior to publication or adoption.

Chair O'Leary reminded all that the public hearing was just for that- discussion of the issues with the public and nothing is set in stone until the vote is taken.

Mr. Bradley McKenzie, McKenzie Engineering Group, Inc., suggesting holding off on the revisions, as they are based upon the By-Laws. He noted, that at this time, the By-Laws are in need of revisions more so than the regulations and he used vernal pools as an example; not defined in the By-Laws, but regulated in the Rules and Reg's.

The Commission agreed that work was over due on the By-Laws, but reiterated the necessity of general administrative and clean up of the reg's.

Due to the hour, the Commission continued the hearing as follows:

VOTE: SO-yes; NM-yes; JS-yes; DM-yes; LH-yes: to continue the hearing to 6/21/06 at 7:00 PM.

7:30 PM **SE 31-899, 454 Broadway- NRAD-** *continued from 4/19/06 meeting*

PRESENT: Richard Kirby, LEC Environmental, Inc., Applicant's Representative

DISCUSSION: Mr. Kirby gave a brief history of the project and noted comments from the Commission's Wetland Consultant, Lenore White. He stated that the plan had been revised as per Ms. White's 5/9/06 recommendations including the FEMA lines, Bordering Vegetated Wetland, (BVW), Top of Bank (TOB), and Bordering Land Subject to Flooding (BLSF). Ms. White noted that some flags for the BVW had been modified, TOB and Riverfront Area were correct, and BLSF and FEMA flood lines were agreed upon by both parties.

VOTE: SO-yes; NM-yes; JS-yes; DM-yes; LH-yes: to close the hearing and issue an Order of Resource Area Delineation based upon the revised plan dated 5/9/06.

7:30 PM **BL 06-12, SE 31-903, 260 Ledgewood Drive- NOI- FOR POOL**

PRESENT: Rosemary Economou, Property Owner

DISCUSSION: Ms. Economou presented the project and noted that the excavated soils would be temporarily located in the area of the proposed cabana, then removed from the site.

VOTE: SO-yes; NM-yes; JS-yes; DM-yes; LH-yes: to close the hearing and issue an Order of Conditions with conditions as follows:

- that the excavated soils be temporarily located at the proposed location of the cabana, to be removed from the site prior to construction of the cabana;
- that the permanent setback markers be installed as per the approved plan
- that the Commission accepts the plan with hand-drawn revisions as to the stockpiled soils and permanent setback marker locations.

7:30 PM **SE 31-901, 12 Homer Rd.- NOI- FOR POOL-** *continued from 5/3/06 meeting*

PRESENT: Ms. Jane Cote, Easton Pools and Spa, Applicant's Representative, Peter Fallon, Property Owner

DISCUSSION: Ms. Cote explained the project and that wetland flagging had been conducted by Wetland Specialist Mr. Walter Hewittson. The Agent noted a discrepancy

in the wetland flagging from a previous plan approved by the Commission. The Commission suggested review of wetland lines by a third party.

VOTE: SO=yes; NM=yes; JS=yes; DM=yes; LH=yes: to close the hearing and issue an Order of Conditions based upon a plan dated 3/27/06 and with the condition that the wetland line be verified by Commissioner Laura Horky and the Agent.

7:30 PM **BL 06-05, SE 31-897, 48 Curtis Mill Road-** NOI- *FOR SFD*

PRESENT: Richard Grady, Grady Consulting LLC, Applicant's Representative

DISCUSSION: Mr. Grady presented the project and gave a brief history of the parcel as a lot within the previously approved subdivision. He noted that the Commission's Rules and Reg's were revised in 1993, one year after the Commission approved the subdivision and that the 50 setback to wetlands for the septic system design was approved by the Board of Health. He also stated that the proposed mitigation for the project was more than the required 2:1. He requested a waiver from the 35' setback to wetlands for structures for the proposed deck which is shown on the plan as sitting within the resource area. He noted the estimated 3 square feet of resource area disturbance caused by concrete footings for the deck. He also noted that "strict conformance to the By-Law" in this case, for this lot, "constituted a taking".

The Agent spoke to the Order of Conditions for the test pit project, SE 31-853, specifically Conditions #38 which states that a 35 foot setback to wetlands must be maintained. Wetland delineation for that portion of the project was completed in June of '04. Commissioner Neal Merritt noted the substantially wet condition of the lot even prior to the recent rain events and questioned the proposed location of the house at one foot from the resource area. Chair Moore, who had also conducted a site inspection, related similar concerns.

Abutter Richard Trainor, 56 Curtis Mill Lane, suggested a site inspection by the entire Commission, as he has a basement pump running constantly to eliminate the water that already floods his basement. He questioned advisability of building on this lot and asked for reassurance that his flooding condition would not worsen.

Mr. Grady explained that when the subdivision was approved, the requirements were less in comparison to the strict stormwater management standards required today. He further explained dry wells, and other stormwater management system design components. Due to abutter concerns and unresolved issues, Mr. Grady requested a continuance of the hearing.

VOTE: SO=yes; NM=yes; JS=yes; DM=yes; LH=yes: to continue the hearing to 6/21/06 at 7:30 PM.

7:30 PM **BL 06-11, SE 31-902, 85 Winter Street-** NOI- *FOR ADDITION*

PRESENT: Joshua Bows, Merrill Associates, Inc. and Patrick McDonald, Property Owner

Mr. Bows explained the project and noted improvements to the stormwater management system on site. He noted that all work was proposed out of the Riverfront Area and reviewed the detention basin and stone swale repair. It was pointed out that the Fire Department required additional parking area and full access around the building for fire apparatus. Mr. Bows noted that the Planning Board's consultant, ENSR International, Inc. will conduct the review of stormwater management design. Color photographs were submitted showing the detention basin on Monday, 5/15/06, during a substantial rain

event and noted the performance of the basin. Modification to the basin was proposed to slow down the flow.

VOTE: SO-yes; NM-yes; JS-yes; DM-yes; LH-yes: to close the hearing and issue an Order of Conditions with a condition that ENSR's final report and written verification of Planning Board approval be submitted to the Commission.

7:30 PM **BL 06-14, SE 31-904, 95 Union Street-** NOI- *FOR SFD*

PRESENT: Joshua Bows, Merrill Associates, Inc., and Anthony Fitzpatrick, Applicant.

DISCUSSION: Mr. Bows explained the project and noted resource areas on site included Bordering Vegetated Wetland (BVW), Isolated Vegetated Wetland (IVW), and that within the BVW, a potential vernal pool (PVP) was present. It was noted that the driveway was approximately 700 feet in distance and in two areas caused permanent disturbance to the BVW. Consequently, mitigation in the form of BVW replication at a ratio greater than the required 2:1 was proposed (4:1). He stated that all other work was greater than 100 feet from the PVP, the structure was greater than 35 feet from the BVW, and that all work was proposed outside of the Riverfront Area.

The Agent gave a brief history of the site as it related to a 6 lot subdivision, SE 31-808. It was noted that the language in the subdivision Order of Conditions (OOC) stated that a 35' setback to wetlands must be maintained throughout the individual lots. A brief discussion of the entrance and access to the site ensued. Alternative access through the subdivision was discussed and rejected by the applicant. The Commission reviewed a notation on the subdivision plans approved by the Town of Hanover Planning Board which contain the word "unbuildable" printed within Lot 6.

Mr. Bows explained that the notation had been required by the past Town Planner. The Agent presented a memo to the Commission from the current Town Planner listing several concerns with the proposal including creation of a hardship by the Applicant. Commissioner Neal Merritt reported results of his site inspection and noted clear view of the IVW and BVW. Various conditions within the subdivision OOC were further discussed and it was noted that the OOC had been signed upon pick up at the Conservation Office.

Mr. Jack O'Leary, Merrill Associates, Inc. spoke to the SE 31-808 OOC and noted that the subdivision setbacks had been religiously observed. He added that there was an increase to the wetlands on lot 6 resulting from road run-off.

The Chair reminded all that the subdivision stormwater management system had been designed and approved for a five lot subdivision, not six lots.

Mr. J. O'Leary concurred but added that it was always intended that lot 6 would have its own access from Union Street. He also noted that the road run-off from Union Street is unfiltered. He offered to work with DPW and the Commission to clean up (filter) this area of Union Street by paying for easement design and structures.

The Chair read a portion of the Town Planner/Conservation Agent's memo dated 5/17/06 for the record; Commissioner Merritt further reported on his site inspection and noted the substantial wet condition of the area; Commissioner Jim Smith questioned the feasibility of construction in these conditions.

VOTE: SO-yes; NM-yes; JS-yes; DM-yes; LH-yes: to close the hearing and deny the proposed project based upon the OOC for the subdivision and its accompanying approved plan of record, Planning Board notation on the subdivision plan labeling Lot 6 as "unbuildable", and the amount of disturbance within the resource areas and 25 foot no disturb buffer zones as per the Commission's most current Rules and Regulations.

7:30 PM **BL 06-13, SE 31-___, off Park Drive, Village Commons- NOI- FOR PLANNED RES. DEV. For SENIORS (PRDS)**

PRESENT: Brent Watts, McKenzie Engineering Group, Applicant's Representative
James Rodrigues, James O'Brien, Applicant, and Attorney Thomas Callahan

DISCUSSION: Mr. Watts presented the project as a Planned Residential Development for Seniors with 66 units proposed on 56 acres of land. He explained the project in relation to Village Square and Park Drive Extension, and gave a brief history of the site. Reference was made to previous approvals from the Commission for test pits, demolition of structures, stormwater management system, Natural Heritage and Endangered Species Program requirements for wildlife habitat on site, and explained the most current requirements from the DPW and Fire Departments. He further explained that the 2005 Letter of Map Revision (LOMR) sent to FEMA is currently under review by several state agencies, the MEPA review is underway, and that they are working to finalize the draft Environmental Impact Report for DEP.

Mr. O'Brien stated that requirements of NHESP had prompted a re-design of the units from 87 to 66 in number and that the number will remain at 66 even though NHESP has recently changed its Endangered Species List.

A brief discussion ensued concerning Roadway A's construction within the 25 foot *no disturb zone* and Roadway D's alteration of wetland series P1. Mr. O'Brien explained the 135 sq. ft. of mitigation proposed for the disturbance.

Mr. Watts explained the construction schedule and noted the phased approach of the construction to include the waste water treatment plant, front roadways, and then 15 units. It was further explained that units 13-15 as proposed involved 240 sq. ft of BVW and 295 sq. ft. of BLSF disturbance. Mitigation is proposed at 728 sq. ft with compensatory storage included. Also noted was that the entire project proposed less than 5000 sq. ft of permanent alteration of resource area. Mr. Watts further explained that the roadways were redesigned to meet Fire Department safety requirements.

Chair O'Leary commented on the great amount of review from state agencies and town departments and noted the cooperation of the applicant throughout and noted the 85 acres of Open Space included with the project. Mr. O'Brien added that the total impervious surface calculation had been decreased and 3000 sq. ft. of resource area alteration had been removed from the original design.

Selectman Alan Rugman commented that the Applicant has been instrumental in working with the Route 53 Study Committee and has offered a monetary sum to aid in the reconstruction and improvements to Route 53. Mr. Rugman noted that the proposal as presented will result in a well developed site.

A brief discussion and explanation of Guarantee Deposit funds for the Commission's wetland consultant review, Performance Escrow Account for replication areas and final grading/landscaping resulted in the Commission waiving the requirement of both accounts. It was explained that although ENSR could represent both Planning Board and the Commission for review of the site, the \$6,000.00 held by the Planning Board was committed to Planning Board review. If ENSR was to review the project as the Commission's wetland consulting firm, a separate contract would be required. It was suggested that the Applicant submit a letter to the Commission stating that the funds held by the Planning Board could be used if necessary for wetland review.

Chair O'Leary reiterated that ENSR will review the stormwater management system, waste water treatment facility for the Planning Board; that the Commission and former consultants for the Commission along with several state agencies have done a thorough review of all seven series of wetlands on site; that through prior applications, he felt the site and design did not need further review. He suggested closing the hearing.

A final discussion included the Agent's inspection of the erosion control (for a previous permit on site), he reported that even in the recent heavy rain events, the erosion control was well maintained and was working adequately. Bio-sock erosion control materials were discussed resulting in the Commission's approval to use Bio-sock for this project-size and placement to be determined on site by site Foreman and Agent.

VOTE: SO-yes; NM-yes; JS-yes; DM-yes; LH-yes: to close the hearing and issue an Order of Conditions contingent upon the issuance of a DEP file number and with the following conditions:

- replication areas to be started as soon as possible
- written verification from DEP to be submitted for final EIR
- Bio-sock method of erosion control is approved for this project with placement and size to be determined on site by the Conservation Agent with the site Foreman
- that the Commission waives the requirement of a Performance Escrow Account for replication and final grading and landscaping
- that the Commission waives the requirement of a Guaranteed Deposit Account for further wetland review, but that if necessary, the Guaranteed Deposit Account established for ENSR with the Planning Board, may be used for wetland review with written permission from the Applicant.

ACTION ITEM

1. **SE 31-801, 208 Cross Street-** request to review a revised plan
PRESENT: Peter Palmieri, Merrill Associates, Inc., Applicant's Representative
DISCUSSION: Mr. Palmieri explained that the revisions included only a shift to the house location, a rotation by 12 ft., that the setback to resource area remained at 44 ft., that the erosion control location did not change, and that the contours were not revised.
VOTE: SO-yes; NM-yes; JS-yes; DM-yes; LH-yes: to approve the revised plan dated 3/22/06

ADMINISTRATIVE:

- ☐ Approval of Minutes for **5/3/06** meeting- **approved**
- ☐ Sign Bills- **signed**
- ☐ Review Correspondence- **reviewed**
- ☐ Conservation Staff Report- **accepted**

The meeting was adjourned at 10:30 PM.

Minutes Respectfully submitted 6/21/06
Sandra D. MacFarlane, Conservation Commission Secretary